

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: FRIDAY
DATE: JUNE 16, 2017
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [17-11302](#)-A-13 GABRIEL/ADELA AGTARAP

OBJECTION TO CONFIRMATION OF
PLAN BY U.S. BANK NATIONAL
ASSOCIATION
5-8-17 [[18](#)]

U.S. BANK NATIONAL
ASSOCIATION/MV
TIMOTHY SPRINGER/Atty. for dbt.
SEAN FERRY/Atty. for mv.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Overruled

Order: Civil minute order

PROCEDURAL DEFICIENCIES

An objection to confirmation of a chapter 13 plan must be "served on the debtor" and other parties pursuant to Rule 3015 of the Federal Rules of Bankruptcy Procedure. Fed. R. Bankr. P. 3015(f); *see also* LBR 3015-1(c)(4).

A confirmation objection initiates a contested matter, so Rule 9014 applies to it. Fed. R. Bankr. P. 9014(a)-(b). This means the objection must be served as required by Rule 7004. Fed. R. Bankr. P. 7004(a)-(b). Rule 7004 further requires that the debtor's attorney be served whenever the debtor is represented and service is made upon the debtor. Fed. R. Bankr. P. 7004(g).

Here, the objection was not served. Because service was insufficient, the objection will be overruled.

Additionally, the objection fails to use a docket control number. The objection does not comply with Local Rule 9014-1(c), which requires that a docket control number be used on all motions and objections. LBR 9014-1(c)(1)-(4); *see also* LBR 9001-1(n) (defining motion to include objections). In the future, the court may overrule objections made that do not comply with the local rules.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

U.S. Bank National Association's objection to confirmation has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the objection is overruled.

2. [17-11302](#)-A-13 GABRIEL/ADELA AGTARAP
CJO-1
BANK OF AMERICA, N.A./MV
TIMOTHY SPRINGER/Atty. for dbt.
CHRISTINA O/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY BANK OF AMERICA, N.A.
5-30-17 [[37](#)]

Tentative Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Sustained

Order: Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

IMPROPER CLASSIFICATION

Bank of America, N.A., as servicer for The Bank of New York Mellon, as a trustee for certain asset-backed securities, objects to confirmation of the plan on grounds that the plan does not properly classify its secured claim. This secured creditor has filed a proof of secured claim, and its claim is secured by a security interest in real property located at 620 Acacia Drive, Lemoore California. The proof of claim shows a pre-petition arrearage as of the petition date in the amount of \$3721.02. Because no objection to claim has been filed, the claim is deemed allowed as filed. 11 U.S.C. § 502(a).

This district's form chapter 13 plan provides that "Class 4 claims mature after the completion of this plan, are not in default, and are not modified by this plan." Form Chapter 13 Plan, EDC 3-080 (effective May 1, 2012). Claims that are in default and mature after the completion of the plan's term are to be placed in Class 1.

Secured creditor's claim is delinquent and matures after the completion of the Plan. It should be classified in Class 1. The objection will be sustained.

75-DAY ORDER

A Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's declaration without further notice or hearing. See 11 U.S.C. § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Secured creditor Bank of America, as servicer for Bank of New York Mellon, has filed an objection to confirmation that has been presented

to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained, and confirmation of the plan is denied.

IT IS FURTHER ORDERED that a Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's declaration without further notice or hearing. See 11 U.S.C. § 1307(c)(1).

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| 3. <u>17-11302</u> -A-13 GABRIEL/ADELA AGTARAP
RCO-1
WELLS FARGO BANK, N.A./MV
TIMOTHY SPRINGER/Atty. for dbt.
JASON KOLBE/Atty. for mv. | OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
5-24-17 [<u>24</u>] |
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Tentative Ruling

The court has ruled on another creditor's objection to confirmation at docket no. 37. This objection was sustained and confirmation denied. Accordingly, the present objection will be overruled as moot.

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| 4. <u>17-11003</u> -A-13 JOHN/NANCY ALVA

SCOTT LYONS/Atty. for dbt. | ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-25-17 [<u>33</u>] |
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Tentative Ruling

If the installment payment of \$76 due May 22, 2017, has not been received by the time of the hearing, the case may be dismissed without further notice or hearing.

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| 5. <u>17-11003</u> -A-13 JOHN/NANCY ALVA
MHM-1
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.
WITHDRAWN | MOTION TO DISMISS CASE
5-11-17 [<u>24</u>] |
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Final Ruling

The motion withdrawn, the matter is dropped as moot.

6. [12-14304](#)-A-12 JOSE/MARIA MENDONCA
BSG-1
MERCED COUNTY TREASURER AND
TAX COLLECTOR/MV
PETER FEAR/Atty. for dbt.
BARRY GLASER/Atty. for mv.

MOTION TO SEAL
5-19-17 [[158](#)]

Final Ruling

Motion: Entry of Order Sealing Debtor's Compromise Motion and Settlement Agreement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the movant

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The Merced County Treasurer and Tax Collector moves this court to seal the debtors' compromise motion and the underlying settlement agreement. The compromise motion was filed on or about May 19, 2017. For the reasons and authorities stated in the motion, the court will grant the motion and issue an order sealing the compromise motion and underlying settlement agreement. Fed. R. Bankr. P. 9018.

7. [12-14304](#)-A-12 JOSE/MARIA MENDONCA
FW-15

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH MERCED COUNTY
TREASURER AND TAX COLLECTOR
5-19-17 [[152](#)]

PETER FEAR/Atty. for dbt.

Final Ruling

Motion: Approve Compromise of Controversy

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise that settles an adversary case relating to alleged violations of the automatic stay by the defendant Merced County with respect to property taxes owed on two parcels of real property. The compromise is reflected in the settlement agreement attached to the motion as an exhibit and filed at docket no. 155. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtors' motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as an exhibit and filed at docket no. 155.

8. [17-10804](#)-A-13 FELIPE CADENA
MHM-1
MICHAEL MEYER/MV
RICHARD STURDEVANT/Atty. for dbt.

MOTION TO DISMISS CASE
4-27-17 [[20](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

The debtor has failed to appear at a § 341 meeting of creditors. See 11 U.S.C. §§ 341, 343.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

9. [17-11605](#)-A-13 OFELIA GARCIA

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-31-17 [[14](#)]

THOMAS GILLIS/Atty. for dbt.

Tentative Ruling

If the installment payment of \$79 due May 26, 2017, has not been received by the time of the hearing, the case may be dismissed without further notice or hearing.

10. [17-10817](#)-A-13 ALEX BECERRA

MOTION TO DISMISS CASE
4-27-17 [[19](#)]

MHM-1

MICHAEL MEYER/MV

JEFFREY ROWE/Atty. for dbt.

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

The debtor has failed to appear at a § 341 meeting of creditors. See 11 U.S.C. §§ 341, 343.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

11. [17-10922](#)-A-13 JULIAN/ANN SALINAS ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-19-17 [[21](#)]

JAMES MILLER/Atty. for dbt.
\$80.00 INSTALLMENT FEE PAID

Final Ruling

The filing fee having been paid in full, the order to show cause is discharged and the case shall remain pending.

12. [17-11222](#)-A-13 ALEX/PRISCILLA PANG MOTION TO DISMISS CASE
MHM-1 5-11-17 [[34](#)]
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

13. [13-12023](#)-A-13 DONALD/BRENDA SHERMAN OBJECTION TO NOTICE OF MORTGAGE
DRJ-4 PAYMENT CHANGE
DONALD SHERMAN/MV 5-18-17 [[62](#)]
DAVID JENKINS/Atty. for dbt.

Final Ruling

The debtors have filed an objection to notice of mortgage payment change. The debtors and the respondent have stipulated to continue the hearing to July 27, 2017, at 9:00 a.m. The court continues the hearing to that date. A joint status report shall be filed before July 20, 2017.

14. [17-10823](#)-A-13 SIMON/RUTH LOPEZ
MHM-1
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.

MOTION TO DISMISS CASE
5-1-17 [[43](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$2950.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

15. [17-10823](#)-A-13 SIMON/RUTH LOPEZ
MHM-2
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
5-3-17 [[47](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

16. [17-10427](#)-A-12 LUIS/ANGELA OLIVEIRA MOTION TO COMPEL ABANDONMENT
WW-10 5-11-17 [[66](#)]
LUIS OLIVEIRA/MV
RILEY WALTER/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

17. [17-10427](#)-A-12 LUIS/ANGELA OLIVEIRA MOTION TO COMPEL ABANDONMENT
WW-12 5-18-17 [[76](#)]
LUIS OLIVEIRA/MV
RILEY WALTER/Atty. for dbt.

Final Ruling

Motion: Confirm the Debtor in Possession's Power to Abandon Real Property of the Estate

Notice: LBR 9014-1(f) (1); written opposition required

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below

Real Property Description: 1540 E. James, San Jose, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

PROCEDURE

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

In a chapter 12 case, the debtor in possession has the rights and powers of a trustee under chapter 5. Section 1203 provides: "Subject to such limitations as the court may prescribe, *a debtor in possession shall have all the rights . . . and powers*, and shall perform all the functions and duties, except the duties specified in paragraphs (3) and (4) of section 1106(a), *of a trustee serving in a case under chapter 11*, including operating the debtor's farm or commercial fishing operation." 11 U.S.C. § 1203 (emphases added).

Accordingly, to determine a chapter 12 debtor in possession's rights and powers, one must consider the scope of the chapter 11 trustee's rights and powers. A chapter 11 debtor in possession has rights and powers that are also defined by reference to the rights and powers of a chapter 11 trustee. 11 U.S.C. § 1107(a). In its discussion of the rights and powers of a chapter 11 *debtor in possession*, a leading

treatise identifies those rights and powers by referring to the provisions of chapters 3, 5 and 11 that confer specified rights and powers on trustees. 7 *Collier on Bankruptcy* ¶ 11.07.03, at 1107-7 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. rev. 2015). By inference, the rights and powers of a chapter 11 trustee are also defined with reference to the same provisions of chapters 3, 5 and 11 that confer rights and powers on trustees.

Section 103(a) supports the conclusion that a chapter 11 trustee has the rights and powers of a trustee under chapters 3 and 5. Section 103(a) provides that chapters 1, 3 and 5 of title 11 apply in a case under chapter 11. Thus, a chapter 11 trustee has the rights and powers of a trustee under other chapters of Title 11.

Because a chapter 11 trustee (and a chapter 11 debtor in possession) have the power of a trustee under chapter 5 to abandon property, a chapter 12 debtor in possession has the same power under section 1203. As a result, the court will treat this as a motion requesting an order confirming the debtor in possession's right and power to abandon the subject real property.

ABANDONMENT

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled. The real property described above is either burdensome to the estate or of inconsequential value to the estate. The secured debt exceeds the property's value. The court will enter an order confirming that this abandonment is proper. The order shall state that any exemptions claimed in the real property abandoned may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

18. [17-10427](#)-A-12 LUIS/ANGELA OLIVEIRA MOTION FOR COMPENSATION BY THE
WW-13 LAW OFFICE OF WALTER WILHELM
LAW GROUP FOR RILEY WALTER,
DEBTORS ATTORNEY(S)
5-18-17 [[81](#)]
- RILEY WALTER/Atty. for dbt.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Approved
Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The

court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 12 case, Walter Wilhelm Law Group has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$31,832.50 and reimbursement of expenses in the amount of \$2,371.79.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 12 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Walter Wilhelm Law Group's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$31,832.50 and reimbursement of expenses in the amount of \$2,371.79. The aggregate allowed amount equals \$34,204.29. As of the date of the application, the applicant held a retainer in the amount of \$15,000. The amount of \$19,204.29 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on the remainder of the retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

19. [17-10427](#)-A-12 LUIS/ANGELA OLIVEIRA
WW-8
LUIS OLIVEIRA/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH JAMES SERGIS
5-10-17 [[60](#)]

RILEY WALTER/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

Motion: Approve Compromise of Controversy

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise that settles a dispute between the movant and a judgment creditor-claimant over the validity of this creditor-claimant's lien. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor in possession's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as Exhibit A and filed at docket no. 64.

20. [17-10427](#)-A-12 LUIS/ANGELA OLIVEIRA MOTION TO COMPEL ABANDONMENT
WW-9 5-11-17 [[71](#)]
LUIS OLIVEIRA/MV
RILEY WALTER/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

21. [17-11027](#)-A-13 CLINTON/CYNTHIA ORDER TO SHOW CAUSE - FAILURE
RUTHERFORD TO PAY FEES
5-30-17 [[23](#)]
JAMES MILLER/Atty. for dbt.

Tentative Ruling

If the installment payment of \$77 due May 22, 2017, has not been received by the time of the hearing, the case may be dismissed without further notice or hearing.

22. [17-11027](#)-A-13 CLINTON/CYNTHIA OBJECTION TO CONFIRMATION OF
CJO-1 RUTHERFORD PLAN BY LAKEVIEW LOAN
LAKEVIEW LOAN SERVICING, SERVICING, LLC
LLC/MV 5-16-17 [[18](#)]
JAMES MILLER/Atty. for dbt.
CHRISTINA O/Atty. for mv.

Final Ruling

The plan having been withdrawn, the objection will be overruled as moot.

23. [17-11027](#)-A-13 CLINTON/CYNTHIA
MHM-1 RUTHERFORD
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
5-11-17 [[14](#)]

JAMES MILLER/Atty. for dbt.

Final Ruling

The plan having been withdrawn, the objection will be overruled as moot.

24. [17-10128](#)-A-13 AMIR SADE
MHM-2
MICHAEL MEYER/MV
F. GIST/Atty. for dbt.
RESPONSIVE PLEADING
CONTINUED MOTION TO DISMISS
CASE
4-21-17 [[49](#)]

No tentative ruling.

25. [16-14237](#)-A-13 JULIO/CYNTHIA HERNANDEZ
JES-4
JAMES SALVEN/MV
MOTION FOR COMPENSATION FOR
JAMES E. SALVEN, CHAPTER 7
TRUSTEE(S)
5-2-17 [[73](#)]

THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

26. [16-14237](#)-A-13 JULIO/CYNTHIA HERNANDEZ
TOG-2
JULIO HERNANDEZ/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING
CONTINUED MOTION TO CONFIRM
PLAN
4-11-17 [[50](#)]

Tentative Ruling

The court further continues the confirmation hearing to July 7, 2017, at 9:00 a.m. for the following reasons. The court previously continued the hearing on this motion as the trustee had not had an opportunity to examine the debtors or audit this case. The court gave the trustee an opportunity to file an amended objection to confirmation before June 16, 2017. But no amended objection was filed. Nevertheless, the issue of the chapter 7 trustee's fees still remains unresolved. This issue must be resolved in conjunction with confirmation, and the plan must be able to fund any chapter 7 trustee's fees approved.

27. [17-10244](#)-A-13 DANIEL AMADOR
DANIEL AMADOR/MV
DANIEL AMADOR/Atty. for mv.
MOTION TO ORDER POSSESSION OF
PROPERTY BE RETURNED TO DEBTOR
FOR DUE TO VIOLATION OF
AUTOMATIC STAY
5-15-17 [[46](#)]
No tentative ruling.
28. [17-10244](#)-A-13 DANIEL AMADOR
DANIEL AMADOR/MV
DANIEL AMADOR/Atty. for mv.
RESPONSIVE PLEADING
MOTION FOR SANCTIONS FOR
VIOLATION OF THE AUTOMATIC STAY
5-11-17 [[44](#)]
No tentative ruling.
29. [17-10244](#)-A-13 DANIEL AMADOR
PK-1
DVP, LP/MV
PATRICK KAVANAGH/Atty. for mv.
MOTION TO DISMISS MOTION
6-1-17 [[59](#)]
No tentative ruling.
30. [16-11645](#)-A-13 ARNOLD WILLIAMS
TCS-1
ARNOLD WILLIAMS/MV
TIMOTHY SPRINGER/Atty. for dbt.
MOTION TO MODIFY PLAN
5-5-17 [[48](#)]

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

31. [15-11947](#)-A-13 JOSE/MARIA CHAVARRIA
AP-2
WELLS FARGO BANK, N.A./MV
MARK ZIMMERMAN/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-5-17 [[50](#)]

Tentative Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied as moot

Order: Civil minute order

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

The confirmed chapter 13 plan in this case provides for the moving party's claim in Class 4. Class 4 secured claims are long-term claims that are not modified by the plan and that were not in default prior to the filing of the petition. They are paid directly by the debtor or a third party. Section 2.11 of the plan provides that "[u]pon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract."

This modification of "all bankruptcy stays" plainly modifies the co-debtor stay as well. The language of this provision also permits the Class 4 claim holder to exercise its rights against any nondebtor, such as a co-debtor protected by the stay under § 1301(a).

Because the plan has been confirmed, the automatic stay has already been modified to allow the moving party to exercise its rights against its collateral. No effective relief can be awarded. The movant's personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its collateral. The motion will be denied as moot.

32. [16-12147](#)-A-13 ANTONIO/MARIA NAVARRO MOTION TO MODIFY PLAN
MGG-8 4-20-17 [[107](#)]
ANTONIO NAVARRO/MV
MATTHEW GRECH/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

33. [17-11148](#)-A-13 PAUL/DARLENE HOLLAND MOTION TO DISMISS CASE
MHM-1 5-11-17 [[29](#)]
MICHAEL MEYER/MV
NICHOLAS WAJDA/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

34. [17-10250](#)-A-13 SHENG/CHAO VANG
FW-1
SHENG VANG/MV

CONTINUED MOTION TO VALUE
COLLATERAL OF SPECIALIZED LOAN
SERVICING LLC
2-23-17 [[17](#)]

GABRIEL WADDELL/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 7197 E. Belmont Ave., Fresno, CA.

The court values the collateral at \$405,000. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value real property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The real property collateral located at 7197 E. Belmont, Ave., Fresno, CA, has a value of \$405,000. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

35. [17-10250](#)-A-13 SHENG/CHAO VANG
FW-2
SHENG VANG/MV

CONTINUED MOTION TO VALUE
COLLATERAL OF STATE LABOR
COMMISSION
2-23-17 [[21](#)]

GABRIEL WADDELL/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the

value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 7197 E. Belmont Ave., Fresno, CA.

The court values the collateral at \$405,000. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value real property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The real property collateral located at 7197 E. Belmont Ave., Fresno, CA, has a value of \$405,000. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

36. [13-13051](#)-A-13 RALPH/REBECCA SALDANA
BCS-7

MOTION FOR COMPENSATION BY THE
SHEIN LAW GROUP, PC FOR
BENJAMIN C. SHEIN, DEBTORS
ATTORNEY(S)
5-12-17 [[86](#)]

BENJAMIN SHEIN/Atty. for dbt.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true.

TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Shein Law Group, PC has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$2100 and reimbursement of expenses in the amount of \$172.29. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Shein Law Group, PC's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$2100 and reimbursement of expenses in the amount of \$172.29. The aggregate allowed amount equals \$2272.29. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$2272.29 shall be allowed as an administrative expense to be paid through the plan. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

37. [14-12359](#)-A-13 ANDRES/BILLIE SALAZAR MOTION TO MODIFY PLAN
TCS-3 4-27-17 [[62](#)]
ANDRES SALAZAR/MV
TIMOTHY SPRINGER/Atty. for dbt.

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

38. [15-13461](#)-A-13 RAMIRO OCHOA MOTION TO AVOID LIEN OF CACH,
NRA-10 LLC
RAMIRO OCHOA/MV 5-30-17 [[190](#)]
NELLIE AGUILAR/Atty. for dbt.

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Prepared by moving party

Liens Plus Exemption: \$198,888.89

Property Value: \$190,000.00

Judicial Lien Avoided: \$5964.89

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to

avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.

39. [17-10763](#)-A-13 JOSEPHINE LEMOS
PBB-1
JOSEPHINE LEMOS/MV
PETER BUNTING/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
SANTANDER CONSUMER USA, INC.
4-27-17 [[14](#)]

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2014 Chrysler 300C. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$16,876.23.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value collateral consisting of a motor vehicle has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2014 Chrysler 300C has a value of \$16,876.23. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$16,876.23 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

40. [16-14564](#)-A-13 FRANK/REBECCA MARTINEZ MOTION TO CONFIRM PLAN
SL-1 4-21-17 [[46](#)]
FRANK MARTINEZ/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

[The hearing on this matter will follow the hearing on the debtors' motion to value collateral in this case having docket control no. SL-3.]

Tentative Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

OPPOSITION

The trustee's opposition to confirmation is based on the debtors' failure to value the secured claim of Solar City. The debtors' motion to value the claim of Solar City has been heard on this court's calendar. The court's ruling is to grant that motion to value. Unless that ruling changes at the hearing, the basis for the objection to confirmation should be resolved in favor of the debtors.

CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

41. [16-14564](#)-A-13 FRANK/REBECCA MARTINEZ SL-3
FRANK MARTINEZ/MV
SCOTT LYONS/Atty. for dbt.
- MOTION TO VALUE COLLATERAL OF
SOLAR CITY FINANCE COMPANY,
LLC.
5-26-17 [[54](#)]

Tentative Ruling

Motion: Value Collateral [Personal Property; Non-vehicular]

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Prepared by the moving party consistent with this ruling's instructions

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

The right to value non-vehicular, personal property collateral in which the creditor has a purchase money security interest is limited to such collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of personal property described as a solar panel system, including a meter, photovoltaic system, modules, inverters, and a mounting system, more fully described in the motion. The debt secured by such property was not incurred within the 1-year period preceding the date of the petition. The court values the collateral at \$4000.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value non-vehicular, personal property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a solar panel system, including but not limited to a meter, photovoltaic system, modules, inverters, and a mounting system, more fully described in the motion, has a value of \$4000. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$4000 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

42. [16-13265](#)-A-13 MICHELLE KEVORKIAN
TCS-1
MICHELLE KEVORKIAN/MV

CONTINUED OBJECTION TO CLAIM OF
AMERICAN INFOSOURCE, CLAIM
NUMBER 2 AND/OR OBJECTION TO
CLAIM OF AMERICAN INFOSOURCE,
CLAIM NUMBER 3 HEARING
11-23-16 [[14](#)]

TIMOTHY SPRINGER/Atty. for dbt.

No tentative ruling.

43. [16-13265](#)-A-13 MICHELLE KEVORKIAN
TCS-2
MICHELLE KEVORKIAN/MV

CONTINUED OBJECTION TO CLAIM OF
FRESNO COUNTY FEDERAL CREDIT
UNION, CLAIM NUMBER 4
11-23-16 [[19](#)]

TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

44. [16-13265](#)-A-13 MICHELLE KEVORKIAN
TCS-3
MICHELLE KEVORKIAN/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED OBJECTION TO CLAIM OF
DISCOVER BANK, CLAIM NUMBER 1
11-23-16 [[23](#)]

No tentative ruling.

45. [16-13265](#)-A-13 MICHELLE KEVORKIAN
TCS-4
MICHELLE KEVORKIAN/MV
TIMOTHY SPRINGER/Atty. for dbt.
OPPOSITION WITHDRAWN

CONTINUED MOTION TO MODIFY PLAN
3-7-17 [[58](#)]

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

46. [12-17273](#)-A-13 CARLOS/SOCORRO CAZADOR MOTION FOR COMPENSATION FOR
BCS-3 BENJAMIN C. SHEIN, DEBTORS
CARLOS CAZADOR/MV ATTORNEY(S)
5-12-17 [[51](#)]

BENJAMIN SHEIN/Atty. for dbt.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Shein Law Group, PC has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$3200.00 and reimbursement of expenses in the amount of \$434.25. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Shein Law Group, PC's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$3200.00 and reimbursement of expenses in the amount of \$434.25. The aggregate allowed amount equals \$3634.25. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$3634.25 shall be allowed as an administrative expense to be paid through the plan. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

47. [17-10876](#)-A-13 JOHN/MARGARET SCHRADER OBJECTION TO CONFIRMATION OF
CJO-1 PLAN BY BANK OF AMERICA, N.A.
BANK OF AMERICA, N.A./MV 5-3-17 [[13](#)]
SCOTT LYONS/Atty. for dbt.
CHRISTINA O/Atty. for mv.

Tentative Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Sustained

Order: Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

IMPROPER CLASSIFICATION

This district's form chapter 13 plan provides that "Class 4 claims mature after the completion of this plan, are not in default, and are not modified by this plan." Form Chapter 13 Plan, EDC 3-080 (effective May 1, 2012). Claims that are in default and mature after the completion of the plan's term are to be placed in Class 1.

Secured creditor Bank of America, N.A. objects to confirmation on grounds that the plan incorrectly classifies its claim. The plan places the secured creditor's claim in Class 4 (and describes the claim holder incorrectly as Real Time Resolutions), but the claim is in default and includes pre-petition arrears in the amount of \$1418.53. Given that this creditor has filed a proof of claim, its claim is deemed allowed until a party in interest objects. 11 U.S.C. § 502(a). As a result, the claim is delinquent and matures after the completion of the Plan. It should be classified in Class 1. The objection will be sustained.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Secured creditor Bank of America, N.A.'s objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained, and confirmation of the plan is denied.

48. [17-10777](#)-A-13 KARINA BLANCAS GRANADOS
MHM-1
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
5-11-17 [[23](#)]

RABIN POURNAZARIAN/Atty. for dbt.

No tentative ruling.

49. [17-12077](#)-A-13 STEVEN/SARAH WILLIAMS
SL-1
STEVEN WILLIAMS/MV
SCOTT LYONS/Atty. for dbt.
MOTION TO IMPOSE AUTOMATIC STAY
5-31-17 [[11](#)]

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted except as to any creditor without proper notice of this motion

Order: Prepared by moving party pursuant to the instructions below

REQUEST FOR APPEARANCE

The court requests—but does not require—one of the joint debtors to appear at the hearing on this matter if one of the joint debtors' schedules permits the debtor's attendance. The reason for the request is that the court would like to question the debtor as a witness regarding the facts of the prior case for the purpose of determining whether an order to show cause regarding disgorgement of attorneys' fees back to the debtors is warranted. The sole purpose of this request relates to the performance of counsel in the prior case (the request does not have anything to do with debtors' actions in the prior case).

The attorney's personal attendance is not required, and a either telephonic or personal appearance is sufficient.

The court further requests the attendance of the U.S. Trustee at this hearing.

DEFAULT ENTERED

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

EXTENSION OF STAY

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted except as to any creditor without proper notice of this motion.

50. [17-10481](#)-A-13 MARK EDELMAN

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-22-17 [[41](#)]

JAMES MILLER/Atty. for dbt.
\$154 FINAL INSTALLMENT PAID

Final Ruling

The filing fee having been paid in full, the order to show cause is discharged and the case shall remain pending.

51. [17-10284](#)-A-13 JUAN/MARIA RAMIREZ

MOTION TO DISMISS CASE
5-1-17 [[45](#)]

MHM-1
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

52. [16-14590](#)-A-13 RICHARD/KRISTINE WALLACE MOTION TO MODIFY PLAN
JDR-2 5-4-17 [[36](#)]
RICHARD WALLACE/MV
JEFFREY ROWE/Atty. for dbt.

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

53. [17-10291](#)-A-13 JUAN GONZALEZ AND MARIA OBJECTION TO CONFIRMATION OF
CJO-1 DIAZ PLAN BY BANK OF AMERICA, N.A.
BANK OF AMERICA, N.A./MV 4-20-17 [[29](#)]
THOMAS GILLIS/Atty. for dbt.
CHRISTINA O/Atty. for mv.
NON-OPPOSITION

Tentative Ruling

The objection will be overruled as moot. The objection is directed at a proposed plan that has been amended. The amended plan was filed April 26, 2017 at docket no. 38 and is being heard by the court on this calendar.

54. [17-10291](#)-A-13 JUAN GONZALEZ AND MARIA MOTION TO DISMISS CASE
MHM-2 DIAZ 5-11-17 [[45](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

55. [17-10291](#)-A-13 JUAN GONZALEZ AND MARIA MOTION TO CONFIRM PLAN
TOG-1 DIAZ 4-26-17 [[37](#)]
JUAN GONZALEZ/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

56. [17-11194](#)-A-13 HECTOR/CHRISTINA AMARO MOTION TO VALUE COLLATERAL OF
PBB-1 VALLEY FIRST CREDIT UNION
HECTOR AMARO/MV 5-19-17 [[17](#)]
PETER BUNTING/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2015 Chevrolet Camaro LT. The debt owed

to the respondent is not secured by a purchase money security interest. See 11 U.S.C. § 1325(a) (hanging paragraph). The court values the vehicle at \$21,379.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value collateral consisting of a motor vehicle has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2015 Chevrolet Camaro LT has a value of \$21,379. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$21,379 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.